

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

NATIONAL LABOR RELATIONS BOARD)	
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)	
Petitioner)	
)	
v.)	Case No. 18-2784
)	
NEWARK ELECTRIC CORPORATION., NEWARK ELECTRIC 2.0, INC., AND COLACINO INDUSTRIES, INC., NEWARK, NEW YORK, A SINGLE EMPLOYER AND ALTER EGOS)	Board Case No. 03-CA-088127
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)	

Respondents.

**RESPONDENTS' ANSWER TO THE APPLICATION FOR
ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR
RELATIONS BOARD**

Pursuant to FED. R. APP. P. 15(b)(2), Respondents Newark Electric Corp., Newark Electric 2.0, Inc., and Colacino Industries, Inc., (collectively, “Respondents”), hereby answer the allegations set forth in Petitioner National Labor Relations Board’s (“NLRB” or the “Board”) Application for Enforcement of its Order (the “Application”), which was filed on September 20, 2018.

1. Respondents admit only that, by its Application, the Board seeks enforcement of the NLRB order issued July 31, 2018, in Board Case No. 03-CA-088127, reported at 366 NLRB No. 145 (July 31, 2018). Respondents aver that this Order is substantively identical to a previous Decision & Order issued in the

underlying Board case (NLRB Case No. 03-CA-088127), reported at 362 NLRB No. 44 (March 26, 2015).

2. Respondents admit only that, by its Application, the NLRB asserts jurisdiction is proper pursuant to Section 10(e) of the National Labor Relations Act, as amended at 29 U.S.C. §§ 151, 160(e). Respondents refer to such statutes for their true and complete content. Respondents DENY that this Court has jurisdiction over this application.
3. Respondents DENY that venue is proper in this Court. Respondents previously filed a Petition for Review of a Board Decision & Order in the underlying Board case (NLRB Case No. 03-CA-088127) in the United States Court of Appeals for the District of Columbia Circuit. That Decision & Order is reported at 362 NLRB No. 44 (2015). The District of Columbia Circuit vacated that Decision & Order and remanded the action to the Board for further proceedings. *See Newark Elec. Corp. v. National Labor Relations Board*, Case #15-1111, 2017 WL 5662145 at *1 (D.C. Circ., July 14, 2017) (D.C. Circ. Doc.#1684152). The District of Columbia Circuit's Order vacating and remanding the action noted that Respondents could raise certain legal arguments on remand, "and seek judicial review if unsatisfied with the result." *Id.* As the NLRB's Decision and Order of July 31, 2018 is substantively

identical to the NLRB's Decision and Order of March 26, 2015, Respondents aver that venue is only proper in the District of Columbia Circuit.

4. Respondents otherwise DENY that the Board is entitled to enforcement of its Order. Respondents hereby incorporate by reference all exceptions, claims and defenses asserted by Respondents in the administrative proceedings underlying the Board's Order.

Dated: October 11, 2018

s/Philip G. Spellane
Philip G. Spellane
Edward A. Trevvett
HARRIS BEACH PLLC
Attorneys for Respondents
99 Garnsey Road
Pittsford, New York 14534
pspellane@harrisbeach.com
etrevvett@harrisbeach.com
Tel.: 585-419-8800